

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



**FISCAL NOTE**

**HB 2302 - SB 2356**

February 10, 2018

**SUMMARY OF BILL:** Creates a new offense for purchasing or attempting to purchase a used or second-hand firearm if the person (1) has been determined by the Tennessee Bureau of Investigation (TBI) to be disqualified from completing the purchase, (2) has knowledge that the person is disqualified from purchasing, (3) is an unlawful user of or addicted to any controlled substance, or (4) is purchasing or attempting to purchase for the purpose of avoiding the disqualification.

A first offense is a class A misdemeanor, and a second or subsequent offense is a class E felony.

**ESTIMATED FISCAL IMPACT:**

**NOT SIGNIFICANT**

Assumptions:

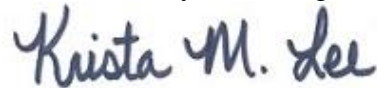
- Tennessee Code Annotated § 39-17-1316(q) prohibits any person from purchasing a firearm knowing that the person is prohibited by state or federal law from owning, possessing, or purchasing a firearm. This provision has been found to only apply to transactions between a licensed firearm dealer and an individual; it does not apply to occasional sales between individuals. *See* Tenn. Op. Atty. Gen. No. 16-44, 2016 WL 7423465 (December 14, 2016).
- The proposed legislation adds a new subdivision to Tenn. Code Ann. § 39-17-1316(q) prohibiting a person from purchasing a used or second-hand firearm if the person is prohibited from purchasing under state or federal law, is an unlawful user of or addicted to any controlled substance, or is purchasing to avoid the disqualification applicable to the person under state or federal law.
- The proposed legislation would punish a first offense as a class A misdemeanor and a second or subsequent offense as a class E felony.
- The offense created under the proposed legislation would already be punishable under Tenn. Code Ann. § 39-17-1316, as the definition of "firearm" under Tenn. Code Ann. § 39-11-106(a)(11) does not distinguish between new, used, or second-hand firearms. Therefore, a person who is prohibited from purchasing a firearm under state or federal law and who attempts to purchase a used firearm is currently violating Tenn. Code Ann. § 39-17-1316.

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- Further, it is assumed that the new subdivision to Tenn. Code Ann. § 39-17-1316(q) would only apply to licensed firearm dealers the same as the current provisions of Tenn. Code Ann. § 39-17-1316(q) and would not apply to occasional sales.
- The proposed legislation effectively only enhances second or subsequent convictions to a class E felony, but only if such offense involves a used or second-hand firearm.
- However, statistics from the Administrative Office of the Courts show no convictions under Tenn. Code Ann. § 39-17-1316 in the past five years. The proposed legislation will not significantly impact state or local incarceration costs.
- The proposed legislation will not impact the caseloads of the courts, public defenders, or district attorneys.

**CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in blue ink that reads "Krista M. Lee". The signature is written in a cursive, flowing style.

Krista M. Lee, Executive Director

/trm